



1                    (It is hereby stipulated and  
2                    agreed by and between counsel for the  
3                    respective parties that filing, reading,  
4                    signing, sealing, and certification are  
5                    waived; and that all objections, except  
6                    as to the form of the question, are  
7                    reserved to the time of trial.)

8                    - - -

9                    EXAMINATION

10                   - - -

11                BY MR. COHEN:

12                    Q.            Good morning Mr. Lazarus. Thank  
13                    you for being here. So my name is Noah Cohen, as  
14                    I stated, and I represent Mr. Figueroa in this  
15                    matter against the County of Delaware.

16                                Have you ever had your deposition  
17                    taken before?

18                    A.            I have been deposed before, yes.

19                    Q.            Okay. And when is -- are you  
20                    currently employed?

21                    A.            I am not. I mean, I do have a  
22                    potential part-time agreement that is being  
23                    executed, totally unrelated to County business.

24                    Q.            Got you. When -- when were you

1 last employed by the county?

2 A. March 31st of this year.

3 Q. And what was your position with  
4 the County?

5 A. It was County Executive Director.

6 Q. And when did you begin that position?

7 A. July of 2020, the 15th.

8 Q. And can you explain what your role  
9 was as Executive Director?

10 A. The Executive Director oversees  
11 most of the day-to-day operations of the County on  
12 behalf of the elected officials, Council members.

13 Q. And in that position did you have  
14 an opportunity to observe Hector Figueroa's work  
15 performance?

16 A. Not directly.

17 Q. In that position, did you have an  
18 opportunity to observe Jamal Johnson's work  
19 performance?

20 A. I did.

21 Q. And how long did you work with  
22 Mr. Johnson?

23 A. He was hired, I believe, in  
24 December of 2022.

1 And Mr. Johnson was not paying attention to those items  
2 which I felt were critical for him to address  
3 during that time frame and those are the ones I  
4 just mentioned.

5 Q. The items are the items -- these  
6 four matters that you are currently discussing; is  
7 that right?

8 A. That's correct. It was the  
9 electronic system that was in general development  
10 with the Personnel Department.

11 Q. Were you present when Mr. Johnson  
12 was informed he was being demoted?

13 A. I was.

14 Q. And what was the -- did you tell  
15 him why he was being demoted?

16 A. Mr. Woolley was the one who provided  
17 the background.

18 Q. And what was that background?

19 A. Mr. Johnson was not paying  
20 attention to the things that I had just mentioned  
21 and that caused other stresses within the  
22 organization.

23 Q. Got you. So do you know whether  
24 or not Mr. Johnson was demoted -- well, what position

1 was Mr. Johnson demoted to?

2 A. He was put in the position of the  
3 Assistant Director for Labor Relations.

4 Q. And before he was demoted to that  
5 position, Mr. Figueroa held that position; correct?

6 A. Yes.

7 Q. And how long was the position empty  
8 before Mr. Figueroa -- sorry -- before Mr. Johnson  
9 was demoted to it?

10 A. Those actions occurred simultaneously.

11 Q. Were the decisions to terminate  
12 Mr. Figueroa and demote Mr. Johnson made together?

13 A. They were.

14 Q. And who, ultimately, made that  
15 decision?

16 A. I did.

17 Q. And who provided input into that  
18 decision?

19 A. It was primarily Mr. Woolley.

20 Q. And do you know -- can you give a  
21 time period of when you made that decision?

22 A. It was in August of last year.

23 Q. And how much time elapsed between  
24 the decision being made and Mr. Figueroa being

1 terminated?

2 A. It wasn't more than a couple days,  
3 as I remember.

4 Q. So if Mr. Figueroa was terminated  
5 on August 23rd, it's fair to say the decision was  
6 made around August 20th or 21st?

7 A. I don't remember the exact date.

8 Q. Okay. Would you say that it was  
9 less -- the decision was made less than a week  
10 prior to his termination?

11 A. I don't remember the exact time frame.

12 Q. Okay. Do you know of any memorialization  
13 of the decision to terminate Mr. Figueroa?

14 A. Mr. Woolley prepared documentation  
15 which he first discussed with me and we discussed  
16 with the County Council. It was the overview of  
17 the functioning of the HR, the Personnel Department  
18 that Mr. Woolley had undertaken, with support from  
19 some folks in my office.

20 Q. And -- okay. So I'll -- was it  
21 drafted in the form of, like, a memorandum?

22 A. It was.

23 MR. COHEN: Okay. So let me try  
24 and see if I've got that document.

1           Q.       Okay. So was the decision to  
2 terminate Mr. Figueroa and demote Mr. Johnson made  
3 with input from any Council members?

4           A.       When you look at the time frame,  
5 particularly what's stated in that memo, we were  
6 looking at valuation of the personnel operations.  
7 And as that memo says, it was in the May/June -- the  
8 May time frame of the year. Mr. Woolley led that  
9 along with the staff members that are mentioned  
10 there in that paragraph. And then those findings  
11 were presented -- the Council chair, Dr. Taylor,  
12 was kept informed since she was liaison to  
13 personnel and she and other Council members had  
14 received a lot of complaints from different  
15 department heads. So they were aware of what's  
16 going on as was I. Mr. Johnson knew that we were  
17 doing it, as well, so there was no secret to what  
18 was going on at the time.

19                   But the end result of it was -- and  
20 one of my concerns -- was Mr. Johnson was paying a  
21 lot of time to Labor Relations matters which was  
22 his forte but for which we had hired Mr. Figueroa.  
23 So because Mr. Johnson had to spend so much time  
24 on those kind of personnel matters, the other

1 items, Broadspire, NEOGOV, the Union agreements  
2 that were going on, the benefits enrollment were  
3 all in various stages of disarray.

4 MR. SCHLEIGH: Noah, I have what I  
5 think is the complete memo that he was  
6 referring to and I can shoot to you by  
7 email if you want it right now?

8 MR. COHEN: That would be great.

9 MR. SCHLEIGH: I just don't have  
10 it Bates stamped yet like I would have  
11 liked to for production.

12 MR. COHEN: Yeah, that's fine.

13 MR. SCHLEIGH: And I can put a  
14 physical copy in front of him so he  
15 doesn't have to get up and look at the  
16 screen the whole time, if you want?

17 MR. COHEN: Yeah, that makes  
18 sense.

19 MR. SCHLEIGH: On its way.

20 MR. COHEN: Okay. (Pause.)

21 Okay. So I will mark this as  
22 Lazarus Exhibit 2.

23 - - -

24 (Four-page email thread marked



1 MR. COHEN: Yeah, exactly.

2 MR. SCHLEIGH: I don't think I'll  
3 be able to get you that today, but I'll  
4 work on it.

5 MR. COHEN: Sure.

6 THE WITNESS: I've read the  
7 document.

8 BY MR. COHEN:

9 Q. Okay. Thanks. So looking at  
10 what's been marked as Lazarus Exhibit 2, is this  
11 the document that you were referencing earlier  
12 when you said that Mr. Woolley prepared -- and I  
13 don't want to use an incorrect word -- but,  
14 essentially, a memo regarding the decision to  
15 terminate Mr. Figueroa and demote Mr. Johnson?

16 A. This is a document that has his  
17 recommendations and the background.

18 Q. Right. And when you said -- I think  
19 you said there was a memorialization of the  
20 decision. Is this document -- what's been marked  
21 as Lazarus-2 the -- that memorialization?

22 A. This document in its completed  
23 form -- I'm not sure that's what this is -- is  
24 what was presented and discussed with the County

1 Council --

2 Q. Okay.

3 A. -- and it was the basis of my  
4 decision to move forward.

5 Q. All right. And when was the  
6 conversation with County Council?

7 A. I think I previously stated, as  
8 best I can remember, it was in August --

9 Q. Okay.

10 A. -- 2022.

11 Q. Okay. Did you have a conversation  
12 with Mr. Figueroa regarding this document?

13 A. Not that I recall.

14 Q. Okay. So the document, like you  
15 said when you first received it, says one of six,  
16 right, at the bottom?

17 A. It does.

18 Q. And it's a four-page document. Do  
19 you know why it -- let me --

20 A. I don't. That's why --

21 MR. SCHLEIGH: Let him finish his  
22 question. I don't know where he's going.

23 MR. COHEN: Yeah, strike that.

24 BY MR. COHEN:

1           solicitor for advice.

2           THE WITNESS: To the best of my  
3           knowledge, the first conversation I had  
4           with the solicitor was the same time we  
5           talked to Council on this matter.

6           Now, that's a very specific answer  
7           to this particular document (indicating),  
8           not to other discussions that I had with  
9           Mr. Martin on personnel matters over a  
10          period of time.

11          MR. COHEN: Okay.

12          MR. SCHLEIGH: There's no question  
13          pending.

14          THE WITNESS: I'm sorry?

15          MR. SCHLEIGH: I thought you were  
16          about to say something.

17          THE WITNESS: No.

18          MR. SCHLEIGH: Okay. It was just  
19          you inhaling.

20   BY MR. COHEN:

21          Q.       So -- okay. Were you aware of an  
22          employee in the Personnel -- sorry -- the Purchasing  
23          Department named Franklin Fitzgerald while you  
24          were employed with the County?

1           A.       Yes.

2           Q.       And was he a direct report of the  
3       director of that department Lisa Jackson?

4           A.       Yes.

5           Q.       And was he transferred away from  
6       that department?

7           A.       I don't believe the transfer was  
8       ever completed. He resigned before it was  
9       completed, to the best of my recollection.

10          Q.       Okay. What, if anything, do you  
11       remember about Mr. -- well, is it your recollection  
12       that Mr. Fitzgerald was in the Purchasing Department  
13       when he resigned?

14          A.       He was assigned there, but he wasn't  
15       working there on a daily basis. So my answer, and  
16       very precise, in that documentation had been  
17       transferred was not completed and he was no longer  
18       present in that office.

19          Q.       Understood. What is your understanding  
20       about the circumstances that led to him no longer  
21       being present in that office prior to his  
22       resignation?

23          A.       There was a very -- there was a  
24       disagreement that was rather loud between him and

1 issue and the background check, as best I can  
2 remember.

3 Q. Okay. And how long would that  
4 generally take to get that approval from the Council?

5 A. It depends. I had another transfer  
6 after this one where we moved someone and the  
7 person was doing the job but it took a little bit  
8 of time to get the paperwork completed. I've had  
9 a lot of success throughout my career finding  
10 opportunities in large organizations for people  
11 who ran into trouble in one -- problems in one  
12 area to be exceptional performers in other areas  
13 and when you do that everybody benefits.

14 Q. Well, what efforts, if any, were  
15 made to handle that compensation issue for  
16 Mr. Fitzgerald?

17 A. I don't recall the specifics, but  
18 his decision to resign from the County terminated  
19 any efforts that were going to take place.

20 Q. And do you know when he resigned  
21 from the County?

22 A. I don't recall the date.

23 Q. And can you estimate how long  
24 elapsed between when he was no longer present in

1 a variety of subjects, so I would think this came  
2 up in our conversations. Also, remember that the  
3 issue with Mr. Peterson was two-fold. One was the  
4 comparison of pay between Mr. Franklin's compensation  
5 and the person doing similar work within Fair Acres.  
6 So even if we moved Mr. Fitzgerald in the current  
7 position he was in and title, he still had that  
8 conflict along with the background check matter.

9 Q. Right. So the pay equity you're  
10 saying is the second issue brought up by Dr. Taylor  
11 regarding Mr. Fitzgerald's transfer?

12 A. No. That was brought up by  
13 Mr. Damico who was the General Manager at Fair Acres  
14 and he would have gotten that from Mr. Peterson.

15 Q. Okay. I thought you testified  
16 that Dr. Taylor brought up three legitimate concerns  
17 about Mr. Fitzgerald's transfer. Am I correct  
18 about that?

19 A. No. I said those are the things  
20 that you have to do. Dr. Taylor's concern was  
21 about Mr. Fitzgerald going into the Sustainability  
22 group.

23 Q. Okay. And --

24 A. So there's also a concern -- as I

1 recall now -- about Mr. Fitzgerald being on the  
2 same floor and just around corner in the building  
3 from Ms. Jackson. And I don't remember who  
4 brought that up.

5 Q. Okay. Right. Because they had  
6 conflict, Mr. Fitzgerald and Ms. Jackson?

7 A. That's correct.

8 Q. Okay. So you remember somebody  
9 bringing up the -- that concern regarding them  
10 being in the -- or working close together; right?

11 A. Because Ms. Jackson and the staff  
12 also worked together frequently and I know in my  
13 mind it was best to provide some physical separation  
14 as well as organizational separation.

15 Q. And in terms of the decision of  
16 who would be moved, do you remember -- were you a  
17 part of that decision, if either Mr. Fitzgerald or  
18 Ms. Jackson were to be moved of who would -- who  
19 was going to be moved?

20 A. Well, Mr. Franklin was going to be  
21 moved to a different position.

22 Q. And why was he the one that was  
23 moved?

24 A. Because there's only one Director

1 of Central Purchasing in the County structure, but  
2 there are other areas where a Procurement Specialist  
3 could be placed within the County.

4 Q. So were any solutions tendered  
5 regarding the pay equity issue?

6 A. I think I previously stated that  
7 before any of those issues were addressed  
8 Mr. Fitzgerald resigned.

9 Q. So going back to Lazarus Exhibit 4,  
10 this is the email from Mr. Johnson on August 18th.  
11 Fair to say at this time Mr. Fitzgerald was still  
12 employed by the County?

13 A. Yes.

14 Q. Okay. Do you know if this email  
15 from Mr. Johnson was ever responded to?

16 A. I don't recall.

17 MR. COHEN: Okay. And I'll mark  
18 this as Lazarus Exhibit 5. It's a  
19 three-page document starting at D Response  
20 to RFP00646 and going to 648.

21 - - -

22 (Email Bates stamped D Response to  
23 RFP00646 and going to 648 marked  
24 Lazarus-5 for identification.)



1 determination made by Mr. Johnson; correct?

2 A. You asked that question.

3 Q. Right. Was a credibility  
4 determination made by Mr. Johnson in regards to  
5 what I'm looking at as Lazarus Exhibit 6?

6 MR. SCHLEIGH: Objection to form.  
7 You can answer.

8 THE WITNESS: Can you scroll down  
9 a little bit?

10 MR. COHEN: Sure. (Scrolling.)

11 THE WITNESS: That's good.  
12 (Witness reviewing document.) Can you  
13 scroll down a little bit more?

14 MR. COHEN: Yeah. (Scrolling.)

15 THE WITNESS: (Witness reviewing  
16 document.) So the last sentence in that  
17 email says Ms. Jackson should be afforded  
18 every opportunity to respond and provide  
19 witnesses, but so far every interview  
20 conducted in accordance with each other.

21 So in that case, Mr. Johnson could  
22 not have the opportunity to talk to  
23 Ms. Jackson, so it does seem in that  
24 email that he's prejudging before he had

1           all the information. That doesn't mean  
2           that what he presented in that email is not  
3           serious. It just means it's not complete.

4   BY MR. COHEN:

5           Q.       Right. Okay. So was there a  
6           credibility determination made by Mr. Johnson?

7           A.       It appears so.

8           Q.       Okay. And are you saying that  
9           Mr. Johnson's credibility determination was  
10          premature?

11          A.       If he didn't have the opportunity  
12          to talk to Ms. Jackson, yeah, I think it is.

13          Q.       And was Ms. Jackson, to your  
14          knowledge, provided an opportunity to interview  
15          with either Mr. Figueroa or Mr. Johnson?

16          A.       I don't recall and I don't know  
17          that I have any way of knowing that.

18          Q.       Should Ms. Jackson have been  
19          provided an opportunity to tell her side of the  
20          story?

21          A.       Oh, absolutely.

22          Q.       And if she was afforded that  
23          opportunity but refused, should the investigation  
24          have halted until she was interviewed?

1     that we reviewed from Mr. Johnson -- which was  
2     Lazarus Exhibit 6 -- I'm happy to go back there --

3             A.       Okay.

4             Q.       -- Mr. Johnson states here in the  
5     second sentence of the final paragraph, Furthermore,  
6     the accounts we have about the behavior of Ms. Jackson  
7     are not only alarming they easily meet the threshold  
8     of workplace bullying and retaliation. Do you  
9     see that?

10            A.       I see that, but I also see the  
11    last sentence that says Ms. Jackson should be  
12    afforded every opportunity to respond.

13            Q.       Do you know whether the investigation  
14    into this allegation from Mr. Fitzgerald was ever  
15    concluded?

16            A.       I don't -- I don't know that.

17            Q.       Should it have been concluded?

18            A.       It should have.

19            Q.       And who would have been responsible  
20    for -- for concluding it?

21            A.       It would have been Mr. Johnson.

22            Q.       And what would Mr. Johnson have  
23    needed to do, in your opinion, after August 15th,  
24    to conclude the investigation?

1           A.       He should have given a formal  
2     response with the recommendation and then a  
3     summary of the investigation including, you know,  
4     the resume of those who are interviewed and what  
5     the responses were.

6           Q.       Would Lisa Jackson have needed to  
7     be interviewed in order to conclude the  
8     investigation?

9           A.       She should have been.

10           MR. COHEN: I'll mark this as  
11     Lazarus Exhibit 9.

12                   - - -

13                   (Email thread Bates stamped  
14     PLF00031 through 33 marked Lazarus-9  
15     for identification.)

16                   - - -

17                   (Document on screen.)

18                   - - -

19           THE WITNESS: Can you make that  
20     larger?

21           MR. COHEN: Yeah. And this is a  
22     three-page document starting at PLF00031  
23     and ending at 33.

24           THE WITNESS: Okay. (Witness

1           Q.       So in this email from Mr. Johnson,  
2       would you agree that he is expressing concern that  
3       Mr. Fitzgerald might be penalized for his complaint?

4           A.       Can you scroll down to the last  
5       paragraph?

6           Q.       (Scrolling.)

7           A.       So what was your question?

8           Q.       Is Mr. Johnson expressing in this  
9       email a concern that Mr. Fitzgerald be penalized  
10      as a result of his complaint?

11          A.       The last paragraph states his  
12      belief that separating the parties -- his comment  
13      is Ms. Jackson can't stay in the office. That's  
14      his final comment in that email.

15          Q.       Right. And he also says that the  
16      Complainant, Mr. Fitzgerald, should not be  
17      adversely affected; correct?

18          A.       Yes.

19          Q.       So what, if anything, was done to  
20      insure that Mr. Fitzgerald not be adversely  
21      affected by -- from his complaint?

22          A.       We were looking to provide him  
23      with an opportunity in another county department  
24      with no loss in title, no degradation in title, no

1     loss of income, with duties that were consistent  
2     with what he was doing, what his job required him  
3     to do.

4             Q.       In your opinion, was sufficient  
5     effort made to insure Mr. Fitzgerald not be  
6     penalized for making his complaint?

7             A.       Yes. But, again, he resigned  
8     before we had the opportunity to find a position  
9     that would give him a chance for long-term success  
10    and growth.

11            Q.       How long would it have taken to do  
12    that?

13            A.       Conjecture. We would have done it  
14    as expeditiously as we could have.

15            Q.       Can you give any estimate for how  
16    long it would have taken?

17            A.       I would have told him we could have  
18    done it within a couple of weeks at the longest.  
19    But, again, I think the diligent efforts were  
20    there to do it.

21            Q.       Well, would you agree with me that  
22    it was more than a couple weeks that he was not  
23    present in the Purchasing Department without  
24    giving him a place to transfer to?

1           A.       I think the documentation shows it  
2 was longer than a couple of weeks.

3           Q.       Right. So how long -- can you  
4 give any estimate as to how long it would have  
5 taken, had Mr. Fitzgerald not resigned, to find  
6 him a position in the county at his same salary?

7           A.       That's conjecture. Part of the  
8 reason it took long was the pushing of a rope to  
9 try to get him into the Sustainability group by  
10 personnel. But, you know, we were and would have  
11 made diligent effort to find a position where he  
12 could have been successful with no degradation in  
13 his responsibility status or pay.

14          Q.       And would the failure to make those  
15 diligent efforts be a penalty to Mr. Fitzgerald?

16                   MR. SCHLEIGH: Objection to form.  
17                   You can answer.

18                   THE WITNESS: Mr. Fitzgerald was  
19 still being paid his salary and so he was  
20 not harmed financially and he was not  
21 harmed in terms of reputation.

22 BY MR. COHEN:

23          Q.       Was he harmed in terms of job  
24 security?

1 on. Whether they're in those files or not that  
2 Mr. Woolley had, I don't know.

3 Q. Did those notes go into the -- into  
4 a computer?

5 A. I don't believe so.

6 Q. Did those notes go into a specific  
7 file?

8 A. There was no official file, no.

9 Q. Fair to say at the time you spoke  
10 to Ms. Jackson about Mr. Fitzgerald's complaint,  
11 you knew Ms. Jackson had not been interviewed  
12 regarding that complaint?

13 A. It's probably right. I'm not sure.

14 Q. Do you know if Ms. Jackson was  
15 ever -- well, strike that.

16 Was your questioning of Ms. Jackson  
17 in that meeting an interview of her regarding  
18 Mr. Fitzgerald's complaint?

19 A. No.

20 Q. Was she ever interviewed regarding  
21 Mr. Fitzgerald's complaint?

22 A. I don't know.

23 Q. What do you remember her telling  
24 you about Mr. Fitzgerald's complaint against her?



1           A.       We spoke about her need to  
2     maintain the office decorum, the office working  
3     environment. That it is her responsibility to  
4     deescalate. She had mentioned that she brought  
5     the complaints forward to personnel previously  
6     about Mr. Fitzgerald's behavior. I spoke to her  
7     about reasonableness in demanding responses to  
8     work requirements that she had. Her input was  
9     that she didn't get responses she needed within a  
10    timely time frame. But, again, it's not reasonable  
11    to send someone a note at 9:00 in the evening and  
12    have something on your desk by 8:00 in the morning.  
13    It's not a reasonable thing to do. And that,  
14    again, as a senior person in the relationship,  
15    it's her responsibility to deescalate.

16           Q.       And were you aware that other than  
17    Mr. Fitzgerald, additional male direct reports  
18    made complaints against Ms. Jackson?

19           A.       I'm aware Mr. McGong (ph) wanted  
20    to be reassigned, which we did. I spoke to Mr. Furman  
21    and we had conversations about a variety of things  
22    and he said he felt the tension in the office, but  
23    I'm not aware that he made a complaint.

24           Q.       And were you aware that Mr. Fitzgerald's

1 investigation; correct?

2 A. Correct.

3 Q. Do you know whether or not Mr. Johnson  
4 was demoted prior to -- well, let me ask you  
5 this -- and I think you said your -- well, do you  
6 know whether or not the investigation was ever  
7 concluded?

8 A. I don't know the answer to that.

9 Q. If Mr. Woolley -- well, I will  
10 represent to you that Mr. Figueroa was terminated  
11 on August 23, 2022. Based upon that, do you know  
12 when Mr. Johnson was demoted?

13 A. Same date.

14 Q. Okay. And so fair to say Mr. Woolley  
15 would have assumed the Personnel Director position  
16 also on August 23, 2022?

17 A. I believe so.

18 Q. Would -- at that point, if the  
19 investigation into Mr. Fitzgerald's complaint had  
20 not been finished, would that have been the  
21 responsibility of Mr. Woolley as Director of Personnel?

22 A. It would still have been  
23 Mr. Johnson's responsibility as Assistant Director  
24 over Employee Labor Relations to finish the report

1 and provide it to Mr. Woolley as the Personnel  
2 Director.

3 Q. Okay. Do you know whether or not  
4 Mr. Fitzgerald was over -- was ever informed as to  
5 the status of the -- of his complaint?

6 A. I do not.

7 Q. Should he have been?

8 A. I previously stated that he should  
9 have been made aware of the final results of the  
10 investigation.

11 Q. Do you, ultimately, know how many  
12 complaints were made against Ms. Jackson in 2022?

13 MR. SCHLEIGH: Objection to form.  
14 You can answer.

15 THE WITNESS: I do not know.

16 BY MR. COHEN:

17 Q. And were you ever made aware of a  
18 concern that information regarding Mr. Fitzgerald's  
19 complaint was being leaked to Ms. Jackson?

20 A. I'm not aware of that.

21 Q. And would it be against policy for  
22 the County for information in an ongoing complaint  
23 under investigation to be provided to the subject  
24 of that complaint?

1 A. Depends on what the termination is for.

2 Q. If it is for job performance.

3 A. There should have been performance  
4 coaching along the way, yeah.

5 Q. And, to your knowledge, was Mr. Figueroa  
6 ever provided performance coaching?

7 A. That's something that Mr. Woolley  
8 and Mr. Johnson would be able to tell you.

9 Q. Did Mr. Johnson -- who did Mr. Johnson  
10 report to prior to his demotion?

11 A. He reported to Mr. Woolley.

12 Q. And do you know whether -- well,  
13 I think you've already stated -- do you know if  
14 Mr. Figueroa was involved in the investigation of  
15 Mr. Fitzgerald's complaints against Ms. Jackson?

16 A. I wasn't aware of it at the time.

17 Q. Okay. Do you know whether Mr. Figueroa's  
18 involvement in that complaint was part of the  
19 decision to terminate him?

20 A. The reasons for his termination  
21 are laid out in Mr. Woolley's communication.

22 Q. And that communication, would that  
23 be --

24 MR. SCHLEIGH: Talking about this.

1 - - -

2 BY MR. SCHLEIGH:

3 Q. Mr. Lazarus, I'm going to refer  
4 you to page four of what's been marked as Lazarus-2  
5 at about two-thirds away down the paper where it  
6 says, Below is an outline of behaviors by Mr. Figueroa  
7 that we believe should result in termination.  
8 There is a bullet point three referring to issues  
9 at the county jail know as the George W. Hill  
10 Correctional Facility. Would you take a look at that?

11           A.       (Witness reviewing document.) Okay.

12 Q. Can you give us any additional  
13 context of what issues were going on with the  
14 County jail that were causing problems from  
15 administrative point of view?

16           A.           I can.    So one of the goals of the  
17   County Council was to de-privatize the operation  
18   of the prison.   We went through all the planning  
19   process and that became effective on April 6th of  
20   2022.   That required the hiring a large number of  
21   people.   It also required that the existing unions  
22   which were -- had agreements with the private  
23   operator become public unions and that required  
24   that we negotiate with the union to incorporate a

1 variety of things, pay scale, county benefits.

2 And during that -- the course of  
3 that, there were two Correctional Officers who  
4 were not hired by the County. There was an  
5 allegation that they were not hired because they  
6 were involved in the union. Warden Lewis (ph)  
7 spoke to me about it. I read their -- their files  
8 and they were both guilty of abuse of people who  
9 were in our custody and care.

10 So, as a result, they were not  
11 hired. It had nothing to do with their union  
12 status. However, they chose to make the charge of  
13 unfair practices under the Public Employees  
14 Relations Act. Had responded for some information.  
15 As it says here, Mr. Figueroa is not clear upon a  
16 timely basis. If he had asked George W. Hill for  
17 the information and had given it to the union, if so  
18 it could have precluded the unfair legal practices  
19 charge.

20 During that course of the negotiations  
21 with the union, the Warden had informed me that  
22 Mr. Figueroa either did not show up to meetings,  
23 was not timely, in some case was not prepared.

24 Q. And did that factor into any

1 determination into terminating Mr. Figueroa?

2 A. Yes.

3 Q. Why is that?

4 A. Because inability to do the job  
5 properly, subjected potentially to the unfair  
6 labor practices. And also, to some extent, you  
7 can say contributed to the union negotiations  
8 being prolonged.

9 Q. With regards to the next two  
10 bullet points on those lists regarding grievance  
11 track and timeliness of investigation, were you  
12 familiar with those complaints about Mr. Figueroa  
13 as well?

14 A. That -- yes. Could you project  
15 up?

16 Q. Yes. I'm sorry.

17 A. The County, as we've established,  
18 is a pretty large place with lots of people at  
19 different points of view. Complaints would come  
20 up and it was incumbent upon Mr. Figueroa to track  
21 those and respond promptly and to keep people  
22 informed as to the status. Mr. Woolley had asked  
23 for a tracker and he did not receive it in a  
24 timely manner. As a result, we were unable to be

1 responsive to other department heads and to  
2 members of Council who had heard about those  
3 complaints.

4 Q. Okay. And is there something that  
5 would have triggered your knowledge about that  
6 being an issue?

7 A. I had complaints forwarded to me  
8 through Council and there are issues that I  
9 brought with up with Mr. Johnson and Mr. Woolley  
10 when we met on our weekly basis.

11 Q. And would you have expected  
12 Mr. Johnson to follow up with Mr. Figueroa about  
13 those complaints to make sure investigations were  
14 completed in a timely manner?

15 A. I would have and I do.

16 Q. Skipping down a few bullet points  
17 to -- in reference to the Director of IT. Could  
18 you explain what that situation was about?

19 A. There was a case where there's a  
20 woman employee in IT who made some unacceptable  
21 comments to another staff member in the IT  
22 Department. She claimed that she was inebriated  
23 and I think subsequently it became clear that she  
24 had an alcohol addiction problem. When it came



1 up, the impacted employee felt that this complaint  
2 was not being taken seriously by Mr. Figueroa  
3 because he was a man and the -- I guess the  
4 oppressor in that case was a woman.

5 Q. And what is this referring to when  
6 it talks about the probationary status of the  
7 complaint about employee?

8 A. Was still in her ninth day probationary  
9 period. If Mr. Figueroa had brought that up we  
10 could have moved quickly terminate during the  
11 probationary period so that that would have saved  
12 us time and effort.

13 Q. And when there's a probationary  
14 period for an employee, is there any required  
15 remediation of the employment of the employee's  
16 behavior?

17 A. Yeah, there is, if there's a  
18 complaint filed.

19 Q. But does the employee of who is  
20 being complained about, can they be fired for any  
21 reason, do they have to get an improvement plan?

22 MR. COHEN: Objection to form.

23 THE WITNESS: So during the  
24 probationary period, the employee can be

1 terminated without cause.

2 BY MR. SCHLEIGH:

3 Q. Okay. And are you aware whether  
4 Mr. Figueroa was a probationary employee at the  
5 time of his firing?

6 A. He was.

7 Q. Going down to the last bullet  
8 there was concern about according plea. Can you  
9 give the context of that particular point?

10 A. Fair to say, I don't remember that  
11 particular case.

12 Q. Okay.

13 MR. SCHLEIGH: I have nothing  
14 further at this time. Mr. Cohen.

15 - - -

16 EXAMINATION

17 - - -

18 BY MR. COHEN:

19 Q. How do you know that Mr. Figueroa  
20 was a probationary employee at the time he was  
21 terminated?

22 A. He was hired in May as a full time  
23 county staff member. 90 days would have taken  
24 that in, I think, to September. Is it may or

1 June? So if you count back the number of days of  
2 his termination to the time of his employee, it  
3 was within the 90-day period.

4 Q. He was initially hired in March;  
5 right?

6 A. He was initially hired as a  
7 contract employee for a temp service. He wasn't a  
8 county employee.

9 Q. And somebody made the decision to  
10 hire him full time off of that temp position; right?

11 A. Correct.

12 Q. Who was that?

13 A. Mr. Johnson.

14 Q. Did Mr. Johnson seek your approval  
15 for that decision?

16 A. He did.

17 Q. And why did you grant -- or did  
18 you grant him your approval?

19 A. I did.

20 Q. Why?

21 A. We talked at the beginning of this  
22 deposition that some of the challenges Mr. Johnson  
23 was facing was with modernizing the Personnel  
24 Department, implementing some new systems, as well

1 period of this termination.

2 BY MR. COHEN:

3 Q. I'm saying in total did he work  
4 for the County for -- well, the probationary  
5 period is 90 days; correct?

6 A. Correct.

7 Q. In total, did he work for the  
8 County for more than 90 days?

9 A. So the time he worked as a temp  
10 through the service doesn't count. He was, basically,  
11 a contractor. Then there was a break in service  
12 that he had. So the effective date of his employment  
13 was in May. So that's the date when the clock  
14 started.

15 Q. But in terms of judging his  
16 overall job performance, was the period prior to  
17 him being hired full time and then his initial  
18 full-time position before his resignation  
19 considered when looking at his job performance?

20 A. So based upon the limited amounts  
21 of work he did as a temp, Mr. Johnson felt comfortable  
22 with offering him a full-time position. And then  
23 there were some things we had to do to address  
24 that because of the terms of the contract we had

1 Ms. Jackson was able to get her feet on the  
2 ground, improve the functioning of the office, and  
3 provide improved processes and support to the  
4 departments the relationship got better. And a  
5 lot of that was based on feedback from the  
6 department heads and back to the Council members.

7 Q. So in August of '22, that's about  
8 18 months after Ms. Jackson was hired; correct?

9 A. Correct.

10 Q. So fair to say by that time her  
11 relationship with Dr. Taylor was strong?

12 A. I can't characterize it. I don't  
13 have -- all I know is that based on conversations  
14 I had with Dr. Taylor, she noted the improvements.  
15 I don't have any information on their personal  
16 relationship.

17 Q. When were those conversations you  
18 are referencing with Dr. Taylor?

19 A. I talked -- as I said before, I  
20 talked to Dr. Taylor particularly in her role as  
21 Council Chair which coincided about when Ms. Jackson  
22 was hired. I talked to Dr. Taylor at least before  
23 every council meeting to go through the agenda and  
24 other items. We spoke on occasion about other

1 things that came up. There was morning conversations,  
2 as well, about items that were not initially on  
3 the Council agenda but items of interest. And I  
4 spoke with all the Council members at least once a  
5 month on a one-on-one basis, sometimes more frequently,  
6 on occasion less. They all had outside jobs.  
7 They're pretty busy people.

8 Q. The decision to not take Mr. Johnson's  
9 recommendation to place Ms. Jackson on administrative  
10 leave was made by you; correct?

11 A. I believe so, to the best of my  
12 knowledge.

13 Q. And you changed your mind at some  
14 point about that decision in order to not place  
15 her on leave?

16 A. That's what the documentation  
17 would show.

18 Q. Do you know why you changed your mind?

19 A. So it's a well-considered thought.  
20 I spoke with Mr. Woolley, Mr. Johnson. I had a  
21 conference with the County solicitor. Based upon  
22 my conversation with Ms. Jackson, we talked about  
23 her obligations as a county leader, those things  
24 weighed into my decision.